

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER:

RAUL O MARCO LABOY  
Debtor(s)

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FIRSTBANK PUERTO RICO  
  
Movant

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CASE NO.: 17-03174 (BKT)

CHAPTER 13

(X) An action against the State  
under Title 11 USC §1307(c) (1) and  
§1307(c) (6), Title 11 USC §1326

MOTION TO DISMISS

TO THE HONORABLE COURT:

Comes now Movant, **FIRSTBANK PUERTO RICO**, through its undersigning attorney, and very respectfully ALLEGES, STATES and PRAYS:

1. This Honorable Court have jurisdiction under Title 28 USC §1334, and venue under Title 28 USC §1408, and particularly regarding this matter under Title 11 USC §1307(c) (1), (4) and (6), on Conversions and Dismissals, and Title 11 USC §1326, on Payments.

2. Debtor filed a bankruptcy case under chapter 13 back on MAY 3, 2017. See, Bkcy Dck no 1

3. MOVANT, standing to address this court is ascertained as filed a secure lien proof of claim, on a personal security loan, with an outstanding debt of \$9,359.25, under account no 0919. See, Clm. Reg. 3

4. As of to July 6, 2016, and prior to the Confirmation Hearing, debtor(s) already have the following installments owed to the chapter 13: \$288.00, for ONE (1) months in arrears. This evidences none compliance with the requirements under 11 USC §1325 (a) (6) on feasibility test, which is a confirmation requirement under 11 USC §1325 (a) (1) on compliance with all her duties under the Code, 11 USC §1326 (a) (1) (A) on compliance with payments amounts proposed under the plan not later than 30 days after the date of filing. See, Exhibit A

5. Under the terms of the proposed plan dated June 26, 2017 debtor(s) should have started to make continues direct payments since June 3, 2017, and as evidenced herein; the debtor(s) have failed to do so. See, Bkcy Dck no 1 and 17

6. Pursuant to the Service Members Civil Relief Act: - the data banks of the Department of the Defense Manpower Data Center confirmed that the debtor(s) is (are) not member(s) of the Uniformed Services (US Armed Forces, Navy, Marine Corps, Air Force, NOAA, Public Health, and Cost Guard.) See, Exhibit B

For the reasons stated above, MOVANT respectfully request from this Court to enter an order dismissing the present case pursuant Title 11 USC §1307(c)(1) on *Unreasonable delay by debtor that is prejudicial to Creditors*, (5) *denial of confirmation of a plan under 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan*, 11 USC §1326 (a) (1) *Unless the court orders otherwise, the debtor shall commence making the payments proposed by a plan within 30 days after the plan is filed*,

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FIRSTBANK Puerto Rico  
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*payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, and (6) on ~~Material default by the debtor with respect to a term of a confirmed plan,~~ and Title 11 USC §1324 (b) ~~on hearing of confirmation that shall to be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341 (a).~~* See also, on Dismissal for cause: In re Howard, 284 F3d 320 (1<sup>st</sup> Cir. 2002) and In re Roberts, 279 F3d 91 (1<sup>st</sup> Cir. 2002)

*The aforementioned request of dismissal is based on congressional intent to prevent bankruptcy abuse*

#### **NOTICE**

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

Puerto Rico Local Bankruptcy Rule 9013-1(h)

In San Juan, Puerto Rico, on July 14, 2017

#### **CERTIFICATE OF SERVICE**

**I hereby certify** that a copy was served by CM/ECF at the authorized address: - to all creditors, - to Atty. Alejandro Oliveras // Atty. José Carrión Morales, as Chapter 13 Trustee, and - to the attorney of the debtor(s) BEATRIZ HERNANDEZ TORO, and to debtor(s) RAUL O MARCO LABOY, by regular mail at the address on record, 350 ROAD 844, APT 5503, COND ALTURAS DEL BOSQUE, SAN JUAN, PUERTO RICO 00926.

BY: /s/ María M. Benabe Rivera  
María M. Benabe Rivera  
Attorney for Movant - US - DC 208906  
Maricarmen Colón Díaz - US - DC 211410  
FIRSTBANK Puerto Rico  
Centro de Servicios al Consumidor - Código 248  
1130 Muñoz Rivera Ave., Rio Piedras, P R  
PO Box 9146, San Juan, PR 00908-0146  
maria.benabe@firstbankpr.com  
(787)729-8135 / (787)729-8276 / [Rev.07/06/2016]

## PAYMENT SCHEDULES - CASE 17-03174

Printer Friendly 

Which Debtor: **RAUL OSCAR MARCO LABOY**

Schedule Number: **1**

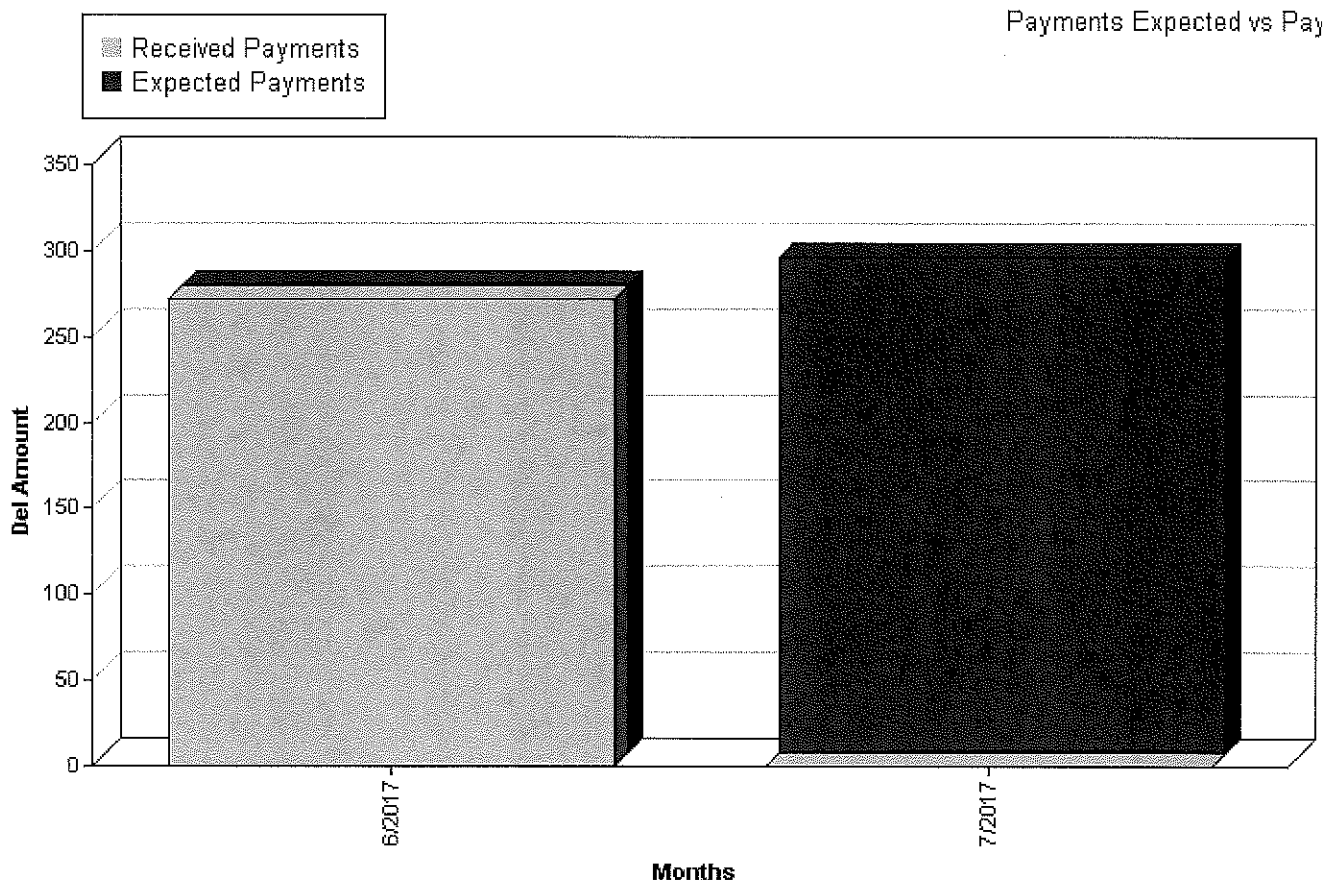
Start Date	Number Periods	Amount	How Often	Who's Paying	Order Date	Action
6/2/2017	1.00	\$272.00	MONTHLY	RAUL OSCAR MARCO LABOY	6/27/2017	
7/2/2017	59.00	\$288.00	MONTHLY	RAUL OSCAR MARCO LABOY	6/27/2017	
6/2/2022	end of plan	\$0.00	MONTHLY	RAUL OSCAR MARCO LABOY	6/27/2017	

 Click to View Debtor schedules.

### Breakdown for Combined Schedules

Period	Date (Month/Year)	Payment Due	Payment Received	Amount Due
1	6/2017	\$272.00	\$272.00	\$0.00
2	7/2017	\$288.00		\$288.00

**Total Delinquent Amount: \$288.00**





**Status Report  
Pursuant to Servicemembers Civil Relief Act**

SSN: [REDACTED]  
 Birth Date: Dec-XX-1976  
 Last Name: MARCO - LABOY  
 First Name: RAUL  
 Middle Name: [REDACTED]  
 Active Duty Status As Of: Jul-08-2017

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

*Michael V. Sementa*

Department of Defense - Manpower Data Center  
 4800 Mark Center Drive, Suite 04E25  
 Arlington, VA 22350

*Exhibit B*

Label Matrix for local noticing  
0104-3  
Case 17-03174-BKT13  
District of Puerto Rico  
Old San Juan  
Thu Jul 6 09:03:36 AST 2017

Chase Card  
Attn: Correspondence Dept  
PO Box 15298  
Wilmington, DE 19850-5298

Comenitycap/gordons  
PO Box 182120  
Columbus, OH 43218-2120

DEPARTAMENTO DE HACIENDA  
235 AVE. ARTERIAL HOSTOS STE 1504  
BANKRUPTCY SECTION  
SAN JUAN, PR 00918-1451

Dsnb Macys  
PO Box 8218  
Mason, OH 45040-8218

First Bank Puerto Rico  
1130 Ave Munoz Rivera  
San Juan, PR 00927-5009

Quantum3 Group LLC as agent for  
MOMA Funding LLC  
PO Box 788  
Kirkland, WA 98083-0788

Synch/amazon  
PO Box 965015  
Orlando, FL 32896-5015

U.S. Department of Education C/O Nelnet  
121 S 13 St  
Suite 201  
Lincoln, NE 68508-1911

JOSE RAMON CARRION MORALES  
PO BOX 9023884  
SAN JUAN, PR 00902-3884

BPPR AS SERVICING AGENT FOR ORIENTAL BANK  
PO BOX 11750  
FERNANDEZ JUNCOS STATION  
SAN JUAN, PR 00910-2850

Chase Card  
PO Box 15298  
Wilmington, DE 19850-5298

Comenitycb/gordon  
Comenity Bank  
PO Box 182125  
Columbus, OH 43218-2125

Dept of Ed/582/Nelnet  
Attn: Claims/Bankruptcy  
PO Box 82505  
Lincoln, NE 68501-2505

FIRST BANK  
CONSUMER SERVICE CENTER  
BANKRUPTCY DIVISION (CODE 248)  
PO BOX 9146  
SAN JUAN PR 00908-0146

First Bank Puerto Rico  
Attn: Bankruptcy  
PO Box 9146  
San Juan, PR 00908-0146

RAUL VICENTE MARCO BORRULL  
2000 Carr. 8177 PMB 484 Suite 26  
Guaynabo, PR 00966-3762

Synchrony Bank/ Hh Gregg  
Attn: Bankruptcy  
PO Box 956060  
Orlando, FL 32896-5060

Visa Dept Store National Bank/Macy's  
Attn: Bankruptcy  
PO Box 8053  
Mason, OH 45040-8053

MONSITA LECAROS ARRIAS  
OFFICE OF THE US TRUSTEE (UST)  
OCHOA BUILDING  
500 TANCA STREET SUITE 301  
SAN JUAN, PR 00901

US Bankruptcy Court District of P.R.  
Jose V Toledo Fed Bldg & US Courthouse  
300 Recinto Sur Street, Room 109  
San Juan, PR 00901-1964

Citi  
PO Box 6190  
Sioux Falls, SD 57117-6190

Costco Go Anywhere Citicard  
Centralized Bk/Citicorp Credit Card Srvs  
PO Box 790040  
Saint Louis, MO 63179-0040

Dept of Education/Neln  
3015 S Parker Rd  
Aurora, CO 80014-2904

FIRSTBANK OF PUERTO RICO  
PO Box 192938  
San Juan, PR 00919-3409

Oriental Bank  
254 Ave Munoz Rivera # 15  
San Juan, PR 00918-1900

Synch/Care Credit  
C/o  
PO Box 965036  
Orlando, FL 32896-5036

Synchrony Bank/Amazon  
Attn: Bankruptcy  
PO Box 956060  
Orlando, FL 32896-5060

BEATRIZ HERNANDEZ TORO  
PO BOX 192841  
SAN JUAN, PR 00919-2841

RAUL OSCAR MARCO LABOY  
350 CARR 844 APT 5503  
COND ALTURAS DEL BOSQUE  
SAN JUAN, PR 00926-7854